

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1149 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE S.D.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

STATE OF GUJARAT

Versus

GHANSHYAM CONSTRUCTION CO

Appearance:

GOVERNMENT PLEADER for Petitioner

CORAM : MR.JUSTICE S.D.SHAH

Date of decision: 17/07/97

ORAL JUDGEMENT

1. Petitioner is the original plaintiff and respondent No.1 is the original defendant. Petitioner is aggrieved by the judgment and order of the Trial Court in Special Civil Suit No.131 of 1990, which was a suit under Sections 5 and 33 of the Arbitration Act. Initially, First Appeal was filed in this Court, being First Appeal No.788 of 1991, which was permitted to be converted into present Civil Revision Application.

2. In this Civil Revision Application, the petitioner, inter alia, prayed that the order passed by the learned Civil Judge (S.D.), at Himatnagar, in Special Civil Suit No.131 of 1990, under Sections 5 and 33 of the Arbitration Act dated 9th of March, 1990 was not maintainable in law and was liable to be quashed and set aside. It appears that the State of Gujarat, through Executive Engineer, Irrigation Project, filed Special Civil Suit No.131 of 1990 in the Court of learned Civil Judge (S.D.), at Himatnagar, inter alia, praying for appointment of one J.C. Patel as the sole arbitrator in connection with the disputes/differences which have arisen between the State of Gujarat on the one hand and Ghanshyam Construction Company & Contractors on the other hand. Such Special Civil Suit came to be dismissed by the learned Civil Judge (S.D.), Himatnagar, on 9th November, 1990 and against such order the present Civil Revision Application is filed.

3. Having heard Mr. Kamal M. Mehta, learned Asstt. Government Pleader, for the petitioner and Mr. S.B. Vakil, learned counsel for respondent No.1, in view of the enactment of Gujarat Public Works Contracts Disputes Arbitration Tribunal Act, 1992 and the provisions made in the said statute, it would be just and proper to refer the disputes and differences that have arisen between the parties to the aforesaid Tribunal and this Civil Revision Application, on a separate set being supplied by the State Government, paper shall be sent by the High Court to the aforesaid Tribunal and the said Tribunal is directed to proceed to decide the disputes and differences between the parties in accordance with the said Act, after following the procedure established by the said Act and providing opportunities of being heard to the parties. The State shall supply the set of this petition to the office within 10 days from today and the office along with such set shall send down the writ to the aforesaid Tribunal within 10 days thereafter and the Tribunal shall decide the same expeditiously.

4. Request of Mr. S.B. Vakil that the proceedings of Special Civil Suit No.131 of 1990, pending in the Court of Civil Judge (S.D.), at Himatnagar should also be transferred to the aforesaid Tribunal as the main disputes and differences between the parties are elaborately set out therein, being just and proper, is accepted and the writ of this order is also directed to be sent to the Court of Civil Judge (S.D.), at Himatnagar, to comply with this order within 30 days from today.

5. In the result, this Civil Revision Application stands disposed of as the matter stands transferred now to the Tribunal. Rule is discharged. No order as to costs.

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